

United States District Court

for

MAR 28 2006

THE DISTRICT OF GUAM

U.S.A. vs:

JUSTIN KEITH GUERRERO

Docket No.

MARY L.M. MORAN
CLERK OF COURT
MJ 05-00045-001

Petition for Action on Conditions of Pretrial Release

COMES NOW ROBERT I. CARREON PRETRIAL SERVICES presenting an official report upon the conduct of Justin Keith Guerrero who was placed under pretrial release supervision by the Joaquin V.E. Manibusan, Jr., Magistrate sitting in the court at Hagatna, Guam on 13th date of September, 20 05 under the following conditions:

Report to the U.S. Probation Office as directed; maintain or actively seek employment; surrender his passport to the Clerk of Court of the U.S. District Court of Guam; obtain no passport; stay away from all ports of entry or exit; avoid all contact directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution; refrain from possessing a firearm, destructive device or other dangerous weapons; refrain from excessive use of alcohol; refrain from any unlawful possession of a narcotic drug or other controlled substances, unless prescribed by a licensed practitioner; submit to drug testing; submit to alcohol testing; not leave the Territory of Guam without the U.S. Probation Office and the Court; maintain residence; and not change residence without the permission of the U.S. Probation Office. On October 19, 2005, the Court modified conditions of release to include that the defendant participate in drug treatment and that the defendant refrain from the use of alcohol.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS
FOLLOWS:

(If short insert here; if lengthy write on separate sheet and attach)

**(See attached Declaration in Support of Petition submitted by
U.S. Probation Officer Robert I. Carreon)**

PRAYING THAT THE COURT WILL

Pursuant to 18 U.S.C. §3148(b), order that a summons be issued, and that this matter be set for a hearing, and at that hearing, the defendant be held to answer or show cause why bail should not be revoked or why conditions of release should not be modified, or for any other matter for which the Court may deem just and proper.

ORDER OF COURT

Considered and ordered 28th day
of March, 2006 and ordered
and made a part of the records in the
case.


JOAQUIN V.E. MANIBUSAN, JR.
Magistrate Judge

Respectfully submitted,


ROBERT I. CARREON
U.S. Pretrial Services Officer**RECEIVED**
Date: MAR 27 2006Place: Hagåtña, GuamDISTRICT COURT OF GUAM
HAGATNA, GUAMDate: March 24, 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM

UNITED STATES OF AMERICA,) MAGISTRATE CASE NO. 05-00045-001
Plaintiff,)
)
vs.) DECLARATION IN SUPPORT OF PETITION
)
JUSTIN KEITH GUERRERO)
Defendant.)
_____)

Re: Violation of Pretrial Release Conditions; Request for a Summons

I, Robert I. Carreon, am the U.S. Pretrial Services Officer assigned to supervise the Court-ordered conditions of pretrial release for Justin Keith Guerrero and in that capacity declare as follows:

On September 13, 2005 the above referenced defendant made an Initial Appearance in the U.S. District Court of Guam to answer to an Information charging him with Possession of Methamphetamine Hydrochloride (as a Misdemeanor), in violation of 21 U.S.C., § 844(a) and 18 U.S.C. § 2. He was released on a personal recognizance bond with the following conditions: report to the U.S. Probation Office as directed; maintain or actively seek employment; surrender his passport to the Clerk of Court of the U.S. District Court of Guam; obtain no passport; stay away from all ports of entry or exit; avoid all contact directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution; refrain from possessing a firearm, destructive device or other dangerous weapons; refrain from excessive use of alcohol; refrain from any unlawful possession of a narcotic drug or other controlled substances, unless prescribed by a licensed practitioner; submit to drug testing; submit to alcohol testing; not leave the Territory of Guam without the U.S. Probation Office and the Court; maintain residence; and not change residence without the permission of the U.S. Probation Office. On October 19, 2005, the Court modified conditions of release to include that the defendant participate in drug treatment and that the defendant refrain from the use of alcohol.

DECLARATION IN SUPPORT OF PETITION

Violation of Pretrial Release Conditions; Request for a Summons

Re: GUERRERO, Justin Keith

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Justin Guerrero is alleged to have violated the following conditions of pretrial release:

Special Condition: *The defendant shall refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. 902, unless prescribed by a licensed medical practitioner.* On January 26, 28, and 30, 2006, Justin Guerrero reported for random urinalysis and tested presumptive positive for the use of marijuana. At each test, he denied any drug use and the urine specimens were forwarded to Scientific Testing Laboratories for confirmation testing. Results returned indicated that the urine samples provided by the defendant were abnormal. Upon requesting further clarification on the results, the Laboratory reported that components of the defendant's urine indicated that the samples were diluted. Diluting one's urine sample (usually achieved by consuming excessive quantities of water prior to a drug test) is a practice by drug using offenders in an attempt to "wash-out" illegal substances from their urine, thereby evading drug use detection. According to the laboratory, diluted samples can be avoided by instructing those tested not to consume any liquids three hours prior a drug test.

On March 2, 2006, Mr. Guerrero reported to the probation office for a compliance meeting to address the drug test results outlined above. He assured no drug use and denied any attempt at diluting. The defendant was instructed not to consume any liquids three hours prior to any scheduled drug tests and that further tests will be monitored.

On March 7, 2006, Mr. Guerrero was drug tested at the U.S. Probation Office. As previously instructed, he consumed no liquids three hours prior to the test. The test yielded presumptive positive results for the use of marijuana. As he denied any illicit drug use, the sample was forwarded to Scientific Testing Laboratories for further analysis. Results returned from the laboratory confirmed the use of marijuana.

Supervision Compliance: Except as outlined above, Mr. Guerrero has complied with his conditions of supervision.

Recommendation: This officer requests, pursuant to 18 U.S.C. §3148, that this matter be scheduled for a hearing and a summons and/or writ of habeas corpus be issued for the defendant's appearance at that hearing to determine if bail should be revoked or why conditions of release should not be modified, or for any other matter for which the Court may deem just and proper.

It is the recommendation of this Officer that Justin Guerrero's pretrial release be revoked, pursuant to 18 U.S.C. §3148, for his continued drug use, his multiple attempts to conceal his drug use through dilution, and his failures to be truthful to the Court about his drug use.

DECLARATION IN SUPPORT OF PETITION

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Executed this 27th day of March 2006, at Hagatna, Guam, in conformance with provisions of Title 28 U.S.C. § 1746.

I declare under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By:


ROBERT I. CARREON
U.S. Probation Officer

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

cc: Marivic P. David, AUSA
Curtis Van de Veld., Defense Counsel
File